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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. **2013-108**

13 **ALICIA ANN FOWLER**
10009 Desoto Ave, #224
14 Chatsworth, CA 91311
Registered Nurse License No. 672183

ACCUSATION

Respondent.

15
16
17 Complainant alleges:

18 **PARTIES**

- 19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing.
- 21 2. On or about January 20, 2006, the Board of Registered Nursing issued Registered
22 Nurse License Number 672183 to Alicia Ann Fowler (Respondent). The Registered Nurse
23 License was in full force and effect at all times relevant to the charges brought herein and will
24 expire on May 31, 2013, unless renewed.

25 **JURISDICTION**

- 26 3. This Accusation is brought before the Board of Registered Nursing (Board),
27 Department of Consumer Affairs, under the authority of the following laws. All section
28 references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

6. Section 2761 of the Code states in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct

. . . .

"(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice Act] or regulations adopted pursuant to it.

7. Section 2762 of the Code states:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

"(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

"(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in

1 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
2 himself or herself, any other person, or the public or to the extent that such use impairs his or her
3 ability to conduct with safety to the public the practice authorized by his or her license."

4 8. Section 2770.11 of the Code provides:

5 "(a) Each registered nurse who requests participation in a diversion program shall agree to
6 cooperate with the rehabilitation program designed by the committee and approved by the
7 program manager. Any failure to comply with the provisions of a rehabilitation program may
8 result in termination of the registered nurse's participation in a program. The name and license
9 number of a registered nurse who is terminated for any reason, other than successful completion,
10 shall be reported to the board's enforcement program.

11 "(b) If the program manager determines that a registered nurse, who is denied admission
12 into the program or terminated from the program, presents a threat to the public or his or her own
13 health and safety, the program manager shall report the name and license number, along with a
14 copy of all diversion records for that registered nurse, to the board's enforcement program. The
15 board may use any of the records it receives under this subdivision in any disciplinary
16 proceeding."

17 COST RECOVERY

18 9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
19 administrative law judge to direct a licentiate found to have committed a violation or violations of
20 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
21 enforcement of the case.

22 DEFINITIONS

23 10. **Dilaudid** is a Schedule II controlled substance pursuant to Health and Safety Code
24 section 11055(b)(1)(j) and is categorized as a dangerous drug within the meaning of Section
25 4022, subdivision (a). Dilaudid is an opium derivative, and the brand name for the narcotic
26 substance Hydromorphone. It is indicated for the treatment of severe pain.

27 11. **Fioricet** is a Schedule III controlled substance pursuant to Health and Safety Code
28 section 11056, subdivision (c)(3), and is categorized as a dangerous drug within the meaning of

1 Section 4022, subdivision (a). Fioricet is a brand name for Butalbital APAP (acetaminophen)
2 Caffeine. It contains 50 mg of butalbital, a barbiturate. It is indicated for the treatment of tension
3 headaches and migraine headaches.

4 12. **Norco** is a Schedule III controlled substance pursuant to Health and Safety Code
5 Section 11056, subdivision (e)(4) and is a dangerous drug within the meaning of Business and
6 Professions Code section 4022, subdivision (a). Norco is a brand name for Hydrocodone/
7 Acetaminophen (APAP). It is indicated for the treatment of moderate to severe pain.

8 13. **Soma** is characterized as a dangerous drug within the meaning of Business and
9 Professions Code section 4022, subdivision (a). Soma is the brand name for Carisoprodol. It is
10 used as a muscle relaxant.

11 **FIRST CAUSE FOR DISCIPLINE**

12 **(Use of Controlled Substance(s) to the Extent That Use Impairs Safety)**

13 14. Respondent is subject to disciplinary action under Business and Professions Code
14 sections 2761, subdivision (a), 2762, subdivision (b), and 2770.11, on the grounds of
15 unprofessional conduct, in that, on multiple occasions, Respondent has used controlled substances
16 to an extent or in a manner dangerous to herself or another person or the public, or to the extent
17 that such use impairs her ability to conduct with safety the practice authorized by her license, by
18 reason of the following facts:

19 a. On or about August 25, 2010, Respondent entered into the Board's substance abuse
20 diversion program (Program). The Board referred Respondent to the Program after an emergency
21 room doctor reported her to the Board for seeking opiate pain medication.

22 b. At her clinical assessment for the Program, Respondent admitted to the clinical
23 assessor that she "doctor shopped" to the point of seeing five to six different doctors per month and
24 obtaining prescriptions for a 30-day supply of Norco from each doctor. She admitted that by the
25 time that she was reported by the emergency room doctor, she was well on her way to being
26 addicted to opiates.

27 c. During her first month of participation in the Program, Respondent was actively using
28 opiates and denying it. Respondent tested positive for opiates on September 13, 15, 17, 21, 24, and

1 27, 2010. On September 24, 2010, Respondent tested positive for Hydromorphone (Dilaudid),
2 Butalbital (Fioricet), and Meprobamate (Soma). All six (6) positive tests have been positive for
3 Diladid (Hydromorphone).

4 d. On or about September 16, 2010, the Board's Diversion Evaluation Committee
5 (DEC) mandated Respondent to enter detox followed by a 30-day in-patient substance abuse
6 treatment program. On or about September 23, 2010, Respondent went to an emergency room for
7 treatment of a migraine. The emergency room doctor reported that Respondent requested Demerol.

8 e. On or about September 28, 2010, Respondent admitted to a Program counselor that
9 she had been actively using narcotics. Respondent was given an ultimatum by the DEC to enter in-
10 patient treatment by October 1, 2010, or she would be terminated from the Program as a Public
11 Risk due to her continual use of narcotics.

12 f. On or about September 29, 2010, Respondent was admitted to an in-patient substance
13 abuse treatment program.

14 g. In or about July 2011, Respondent started submitting late compliance reports to the
15 Program, missed Nurse Support Groups, some unexcused, and fell behind in her Program fees.

16 h. On or about February 9, 2012, she told a Program counselor that she wanted to
17 withdraw from the Program and that she plans to seek employment through a nurse registry. As a
18 result, on or about February 10, 2012, Respondent was terminated from the Diversion Program for
19 noncompliance and designated as a Public Risk due to the fact that she plans to work through a
20 registry and that she has been drug seeking since the beginning of her participation in the Program.

21 **SECOND CAUSE FOR DISCIPLINE**

22 **(Violations of Nursing Practice Act)**

23 15. Respondent is subject to disciplinary action under Business and Professions Code
24 sections 2761, subdivision (d), in that Respondent violated provisions of the Nursing Practice
25 Act, as described in paragraph 14, above.

26 **PRAYER**

27 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
28 and that following the hearing, the Board of Registered Nursing issue a decision:

1 1. Revoking or suspending Registered Nurse License Number 672183, issued to Alicia
2 Ann Fowler;

3 2. Ordering Alicia Ann Fowler to pay the Board of Registered Nursing the reasonable
4 costs of the investigation and enforcement of this case, pursuant to Business and Professions
5 Code section 125.3; and,

6 3. Taking such other and further action as deemed necessary and proper.

7
8 DATED:

August 8, 2012

for Louise R. Bailey

LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
State of California
Complainant

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